

PROPOSED AMENDMENTS TO TITLE 18 (CRIMES)

§ 5902. Prostitution and related offenses

(a.1) Grading of offenses under subsection (a).--An offense under subsection (a) constitutes a:

- (1) Misdemeanor of the third degree when the offense is a first or second offense.
- (2) Misdemeanor of the second degree when the offense is a third offense.
- (3) Misdemeanor of the first degree when the offense is a fourth or subsequent offense.
- (4) Felony of the third degree if the person who committed the offense knew that he or she was human immunodeficiency virus (HIV) positive or manifesting acquired immune deficiency syndrome (AIDS).

(b) Promoting prostitution.--A person who knowingly promotes prostitution of another commits a misdemeanor or felony as provided in subsection (c) of this section. The following acts shall, without limitation of the foregoing, constitute promoting prostitution:

- (1) owning, controlling, managing, supervising or otherwise keeping, alone or in association with others, a house of prostitution or a prostitution business;
- (2) procuring an inmate for a house of prostitution or a place in a house of prostitution for one who would be an inmate;
- (3) encouraging, inducing, or otherwise intentionally causing another to become or remain a prostitute;
- (4) soliciting a person to patronize a prostitute;
- (5) procuring a prostitute for a patron;
- (6) transporting a person into or within this Commonwealth with intent to promote the engaging in prostitution by that person, or procuring or paying for transportation with that intent;
- (7) leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or the promotion of prostitution, or failure to make reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities, or other legally available means; or
- (8) soliciting, receiving, or agreeing to receive any benefit for doing or agreeing to do anything forbidden by this subsection.

(b.1) Promoting prostitution of minor.--A person who knowingly promotes prostitution of a minor commits a felony of the third degree. The following acts shall, without limitation of the foregoing, constitute promoting prostitution of a minor:

- (1) owning, controlling, managing, supervising or otherwise keeping, alone or in association with others, a house of prostitution or a prostitution business in which a victim is a minor;
- (2) procuring an inmate who is a minor for a house of prostitution or a place in a house of prostitution where a minor would be an inmate;
- (3) encouraging, inducing or otherwise intentionally causing a minor to become or remain a prostitute;
- (4) soliciting a minor to patronize a prostitute;
- (5) procuring a prostitute who is a minor for a patron;
- (6) transporting a minor into or within this Commonwealth with intent to promote the engaging in prostitution by that minor, or procuring or paying for transportation with that intent;
- (7) leasing or otherwise permitting a place controlled by the actor, alone or in association with

others, to be regularly used for prostitution of a minor or the promotion of prostitution of a minor, or failure to make reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities or other legally available means; or
(8) soliciting, receiving or agreeing to receive any benefit for doing or agreeing to do anything forbidden by this subsection.

(e) Grading of offenses under subsection (b).—

- (1) An offense under subsection (b) constitutes a felony of the third degree if:
- (i) the offense falls within paragraphs (b)(1), (b)(2) or (b)(3);
 - (ii) the actor compels another to engage in or promote prostitution;
 - (iii) Deleted by 2011, Dec. 20, P.L. 446, No. 111, § 1.2, effective in 60 days [Feb. 21, 2012].
 - (iv) the actor promotes prostitution of his spouse, child, ward or any person for whose care, protection or support he is responsible; or
 - (v) the person knowingly promoted prostitution of another who was HIV positive or infected with the AIDS virus.
- (2) Otherwise the offense is a misdemeanor of the second degree.

(d) Living off prostitutes.— A person, other than the prostitute or the prostitute's minor child or other legal dependent incapable of self-support, who is knowingly supported in whole or substantial part by the proceeds of prostitution is promoting prostitution in violation of subsection (b) of this section.

(e) Patronizing prostitutes. (b) Commercial Sexual Exploitation—A person commits the offense of patronizing prostitutes commercial sexual exploitation if that person hires pays a prostitute or any other person to engage in sexual activity with him or her or if that person enters or remains in a house of prostitution for the purpose of engaging in sexual activity.

(e.1) (b.1) Grading of offenses under subsection (e) (b).—An offense under subsection (e) (b) constitutes a:

- (1) Misdemeanor of the third degree when the offense is a first or second offense.
- (2) Misdemeanor of the second degree when the offense is a third offense.
- (3) Misdemeanor of the first degree when the offense is a fourth or subsequent offense.
- (4) Felony of the third degree if the person who committed the offense knew that he or she was human immunodeficiency virus (HIV) positive or manifesting acquired immune deficiency syndrome (AIDS).

(e.2) (b.2) Publication of sentencing order.—A court imposing a sentence for a second or subsequent offense committed under subsection (e)(b) shall publish the sentencing order in a newspaper of general circulation in the judicial district in which the court sits, and the court costs imposed on the person sentenced shall include the cost of publishing the sentencing order.

§ 3001. Definitions

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Commission.” The Pennsylvania Commission on Crime and Delinquency.

“Debt coercion.” Exploitation of the status or condition of a debtor arising from a pledge by the debtor of the personal services of the debtor or an individual under the debtor's control as a security or payment for debt, if any of the following apply:

- (1) The value of those services as reasonably assessed is not applied toward the liquidation of the debt.
- (2) The length and nature of those services are not respectively limited and defined.
- (3) The principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred.
- (4) The debtor is coerced to perform sex acts as payment for the debt.
- (5) The creditor controls and determines the movement, housing and services performed by the debtor until repayment of the debt.

“Extortion.” As defined in section 3923 (relating to theft by extortion).

“Financial harm.” Includes any of the following:

- (1) A violation of the act of March 30, 1859 (P.L. 318, No. 318),¹ entitled “An act for the better securing the Payment of the Wages of Labor in certain counties of this Commonwealth.”
- (2) A violation of the act of May 23, 1887 (P.L. 181, No. 122),² entitled “An act to regulate the employment of labor.”
- (3) A criminal violation of the act of January 30, 1974 (P.L. 13, No. 6),³ referred to as the Loan Interest and Protection Law (Usury Law).
- (4) A violation of Chapter 2 of the act of June 23, 1978 (P.L. 537, No. 93),⁴ known as the Seasonal Farm Labor Act.
- (5) A violation of any other law of this Commonwealth governing the payment of wages for labor or services.

“House of prostitution.” Any place where prostitution or promotion of prostitution is regularly carried on by one person under the control, management or supervision of another.

“Human trafficking.” Any activity in violation of section 3011 (relating to trafficking in individuals) either alone or in conjunction with an activity in violation of section 3012 (relating to involuntary servitude).

“Inmate.” A person who engages in prostitution in or through the agency of a house of prostitution.

“Involuntary servitude.” Labor servitude or sexual servitude.

“Labor.” Work or service of economic or financial value.

“Labor servitude.” Labor which is performed or provided by another individual and is induced or obtained by any of the means set forth in section 3012(b).

“Minor.” An individual who is less than 18 years of age.

“Public place.” Any place to which the public or any substantial group thereof has access.

“Record.” Information, regardless of physical form or characteristics, that documents a transaction or activity and that is created, received or retained under law or in connection with a transaction, business or activity. The term includes any of the following:

- (1) A document, paper, letter, map, book, tape, photograph, film or sound recording.
- (2) Information stored or maintained electronically.
- (3) A data-processed or image-processed document.

“Serious harm.” Any harm, whether physical or nonphysical, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances as the victim of human trafficking to perform or to continue performing labor or a service, a commercial sex act or a performance involving sex acts in order to avoid incurring that harm.

“Service.” Any act committed at the behest of, under the supervision of or for the benefit of another.

“Sex act.” Any touching or exposure of the sexual or other intimate parts of any individual for the purpose of gratifying sexual desire of any individual.

“Sexual activity.” Includes homosexual and other deviate sexual relations.

“Sexual servitude.” Any sex act or performance involving a sex act for which anything of value is directly or indirectly given, promised to or received by any individual or which is performed or provided by any individual and is induced or obtained from:

- (1) A minor.
- (2) Any other individual by any of the means set forth in section 3012(b).

“Victim of human trafficking” or “victim.” An individual who has been subjected to human trafficking.

§ 3011. Trafficking in individuals

(c) Promoting prostitution.--A person who knowingly promotes prostitution of another commits a misdemeanor or felony as provided in subsection (c) of this section. The following acts shall, without limitation of the foregoing, constitute promoting prostitution:

- (1) owning, controlling, managing, supervising or otherwise keeping, alone or in association with others, a house of prostitution or a prostitution business;
- (2) procuring an inmate for a house of prostitution or a place in a house of prostitution for one who would be an inmate;
- (3) encouraging, inducing, or otherwise intentionally causing another to become or remain a prostitute;
- (4) soliciting a person to patronize a prostitute;

(5) procuring a prostitute for a patron;

(6) transporting a person into or within this Commonwealth with intent to promote the engaging in prostitution by that person, or procuring or paying for transportation with that intent;

(7) leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or the promotion of prostitution, or failure to make reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities, or other legally available means; or

(8) soliciting, receiving, or agreeing to receive any benefit for doing or agreeing to do anything forbidden by this subsection.

(c.1) Promoting prostitution of minor.--A person who knowingly promotes prostitution of a minor commits a felony of the third degree. The following acts shall, without limitation of the foregoing, constitute promoting prostitution of a minor:

(1) owning, controlling, managing, supervising or otherwise keeping, alone or in association with others, a house of prostitution or a prostitution business in which a victim is a minor;

(2) procuring an inmate who is a minor for a house of prostitution or a place in a house of prostitution where a minor would be an inmate;

(3) encouraging, inducing or otherwise intentionally causing a minor to become or remain a prostitute;

(4) soliciting a minor to patronize a prostitute;

(5) procuring a prostitute who is a minor for a patron;

(6) transporting a minor into or within this Commonwealth with intent to promote the engaging in prostitution by that minor, or procuring or paying for transportation with that intent;

(7) leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution of a minor or the promotion of prostitution of a minor, or failure to make reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities or other legally available means; or

(8) soliciting, receiving or agreeing to receive any benefit for doing or agreeing to do anything forbidden by this subsection.

(d) Grading of offenses under subsection (c).--

(1) An offense under subsection (c) constitutes a felony of the third degree if:

(i) the offense falls within paragraphs (c)(1), (c)(2) or (c)(3);

(ii) the actor compels another to engage in or promote prostitution;

(iii) the actor promotes prostitution of his spouse, child, ward or any person for whose care, protection or support he is responsible; or

(iv) the person knowingly promoted prostitution of another who was HIV positive or infected with the AIDS virus.

(2) Otherwise the offense is a misdemeanor of the second degree.

(e) Living off sexually exploited persons.--A person, other than the sexually exploited person or the sexually exploited person's minor child or other legal dependent incapable of self-support, who is knowingly supported in whole or substantial part by the proceeds of prostitution is promoting prostitution in violation of subsection (c) of this section.